

name: Mr. Gary Wall

number: 1133749

Place of Confinement: Red Onion State Prison,
Post Office Box 1400, Pound, Virginia 22129

DEC 27 2018

JULIA C. DUDLEY, CLERK
BY: [Signature]
DEPUTY CLERK
dated: December 19th 2018

Mr. Gary Wall #1133749
Plaintiff
v.
E. Rasner; Correctional Officer of ROSP; et al;
Defendants

Civil Action No. 18-cv-00385

IN RE: MOTION RE DEFENDANTS FAILURE TO COMPLY WITH
A COURT ORDER; Dated: OCTOBER 24th 2018 (SANCTIONS)

Now comes, Mr. Gary Wall #1133749, prose, Plaintiff moving this honorable Court to GRANT Plaintiff's SANCTIONS in accordance with FED. R. CIV. P. RULE 37 (b) (2) (A) (vii) and/or (iv), for Defendants FAILURE TO COMPLY WITH A COURT ORDER, dated: OCTOBER 24th 2018 (ECF no. 60) under FEDERAL RULE OF CIVIL PROCEDURE, RULE 37 (b) (2) (A); To provide "SPECIFIC" DISCOVERY REQUESTED.

Since the Defendants continuously allege that they have "Complied with Plaintiff's Discovery Request" by providing "incomplete discovery material on the continued excuse of: "They object to this discovery on the grounds that it is overbroad, not reasonably tailored to this issues raised by this case... and because complete compliance would be overly burdensome on these Defendants," AFTER this Court GRANTED Plaintiff's "MOTION TO COMPEL "SPECIFIC" REQUESTED DISCOVERY (ECF no. 52), must be treated as an evasive or incomplete discovery, answer or response in accordance with FED. R. CIV. P. RULE 37 (a) (4).

II. AFFIDAVIT IN SUPPORT OF MOTION FOR SANCTIONS

I, Mr. Gary Wall #1133749, affirm that I am the Plaintiff in this action and I know the content of the following statements; that they are true of my own knowledge, except to those matters that are stated in it to be based on my own information and belief; and to those matters, I also believe them to be true. I declare under penalty of perjury that the following is true and correct:

(CONTINUED ON NEXT PAGE)

MOTION OF DEFENDANTS FAILING TO COMPLY WITH A COURT ORDER (SANCTIONS)

Continuation of: II. AFFIDAVIT IN SUPPORT OF MOTION FOR SANCTIONS, from page one

1. Affiant declares, Defendants has failed to Respond or provide a Response to Plaintiff's "Specifically Requested Discerning Material of the Operational Proceedings (420.1; 420.2; 030.1; 030.1; 030.4; 135.1; 160.2; and 350.2), or the initial "GO-TAKE" Decision and appeal (page Two, of Grievances) or the Level-II, appeal too either Grievances #00420 or #00024, as Requested in the 11/7/18, Response.

2. Affiant declares, Defendants has failed to provide Plaintiff with pages 2, and 4, of his written Settlement initially Requested in his MOTION TO COMPEL (ECF. no. 52) within Seven (7) additional Days from the 11/7/18, Defendants Response

3. Affiant declares, Plaintiff has yet to receive Responses from Interrogatories from Defendants: T-LARGE or B-ARERS, initially submitted on APRIL 16th 2018, on Record as ECF. no. 43

4. Affiant declares, Defendants allege in ¶ 3(a), of their Response: "Defendants are NOT Certain what is being Requested," from the Investigative Report #150423 RFD, but this Report and Plaintiff's "Good-faith" letter dated: 3/20/18, 24 paragraph #1, Clearly and in Specific detail express the discerning materials Sought as follows:

"The Internal Incident Report of Defendant E. Gasnick, to include but not limited too: ILR-ROSD-2015-000974; ILR-ROSD-2015-000976; and ILR-ROSD-2015-000977, also the Internal Incident Report used to Generate Disciplinary Offense Report ROSD-2015-1479, by Sgt. J.B. Hall; initially Requested in ¶ 2, of Pl.'s initial RFD on Record as ECF. no. 4302"

5. Affiant declares, Defendants have also failed to provide the Requested Video footage of: A & B side Recreation yards; B-Buildings Vestibule; and B-Buildings Cell 308, as Requested on Record as ECF. no. 52, nor has the Defendants provided the Same Hand held Video footage of: G. Wall #1137719, Removal from five-point restraints by W.R.S.P.

(CONTINUED ON NEXT PAGE)

MOTION OF DEFENDANTS FAILURE TO COMPLY WITH A COURT ORDER (SANCTIONS)

Continued from page: Two

6. Affiant declares, Defendants have failed to answer; Completely provide; or have given incomplete Discovery in every Discovery Response on Record Concerning this Civil action.

dated: 12/17/18

Henry Wolf #1133149
Respectfully Submitted

STATE OF VIRGINIA
County of: Wise to-wit:

Subscribed and Sworn to before me, a NOTARY PUBLIC, on this 18 day of

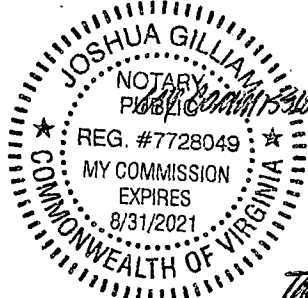
December 2018.

on in

Notary Public

8/31/2021

*The above Notary is NOT a party to this action:
Henry Wolf #1133149



III. SANCTIONS SOUGHT

Therefore, Defendants' allegations of Complying with any of Plaintiff's Discovery Request fully on Record Concerning the above Civil action at ANY TIME in their Responses is inaccurate and this Court should GRANT Sanctions of treating this as Contempt of Court for failure to Obey any ORDER and Staying any further proceedings (such as the 1/23/19 Trial Date) until the ORDER is Obeyed; Since Defendants have failed to Comply with the Court ORDER dated: October 24th 2018, or provided Evasive or incomplete Disclosure, Answer or Response in accordance with Fed. R. Civ. P. RULE 37(d)(4).

dated: 12/17/18

Henry Wolf #1133149
Respectfully Submitted

CERTIFICATE OF SERVICE

I hereby certify that on this 19th day of DECEMBER 2018, I mailed a Copy of the foregoing: MOTION OF DEFENDANTS FAILURE TO COMPLY WITH A COURT ORDER; to Respondents: United States District Court Clerk; 210 Franklin Road, S.W. Suite-590, Roanoke, Virginia 24011-2008, by first class mail.

I certify that the above notary is not a party to this action.

Ipmate Signature

Henry Wolf #1133149
Respectfully Submitted

(3) (page: Three of 3)

*delivered May 14, 1999
to West Virginia State Prison
West Virginia State Prison
Martinsburg, West Virginia 26104-1000*

*Attention:
Legal Correspondence:*

LEGAL MAIL

VA DOC HAS NEITHER RECEIVED OR
INSPECTED THIS ITEM. THE DEPARTMENT
DOES NOT ASSUME ANY RESPONSIBILITY
FOR ITS CONTENTS.

*To: United States District Court Clerk
of the Western District of Virginia
210 Franklin Road, SW, Suite 540
Roanoke, Virginia 24001-2100*



PITNEY BOWES
ZIP 24279 \$ 000.47⁰
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0000337008DEC. 20. 2018

RECEIVED

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